No. 16-1215

In the Supreme Court of the United States

LAMAR, ARCHER & COFRIN, LLP,

Petitioner,

v.

R. SCOTT APPLING,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

SUPPLEMENTAL BRIEF FOR RESPONDENT

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SUPPLEMENTAL BRIEF FOR RESPONDENT

In our opposition brief (Opp. 12), we pointed to the pending appeal *Haler* v. *Boyington Capital Group, LLC*, No. 17-40229 (5th Cir.).

On December 29, 2017, the Fifth Circuit issued an unpublished opinion in that case. See *Haler* v. *Boyington Capital Group, LLC*, 2017 WL 6729967 (5th Cir. 2017). The court ruled in favor of the debtor based on existing Fifth Circuit precedent; it found that the debtor's statements constituted "statements respecting * * * financial condition," as that phrase was construed by *Bandi*. As a result, *Haler* no longer presents a vehicle for resolving any perceived distinction between the legal holding in *Bandi* and the decision at issue here.

We respectfully submit that certiorari remains premature until a court of appeals rejects the holding below in a case where that issue is outcome determinative.

CONCLUSION

The petition should be denied.

Respectfully submitted.

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